

## 50 WOMEN PROTEST SPOILING OF PARK BY RIVERSIDE PLAN

Mrs. Charles A. Bryan Heads  
Delegation Before Board  
of Estimate.

It was women's turn before the Board of Estimate to-day to protest against the New York Central improvement along the west side.

Mrs. Charles A. Bryan was director general of the feminine forces, fifty strong and all primed with speeches. Among them were Mrs. James M. Stewart, Mrs. William R. Stewart, Mrs. John C. Coleman, Mrs. Charles L. Craig, Miss Frances Peters, Mrs. John Marshall Gallagher, Mrs. Stephen Coleman, Mrs. Sofia Loeblinger, Miss Spiegelberg, Mrs. Lee and little Nancy Kelly.

A momentary display of fireworks started the session. Mayor Mitchell moved that a pamphlet that had been presented by Charles L. Craig be rejected and expunged from the record because of its attacks and insinuations reflecting on the integrity of Comptroller Prendergast.

Borough President Matthews called the attack playmate.

The Mayor's motion was adopted. All the women speakers complained against the damage to be done to Riverside Park. Mayor Mitchell and Comptroller Prendergast answered the charges and sought to explain conditions to each speaker.

Little Nancy Kelly's brother was run over in Death Avenue. She said she did not want to have the park spoiled so the children could not go there and play and get well.

"In place of spoiling your park," said the Mayor to Nancy, "the children will have nearly as much again land as they have now."

Borough President Marks interrupted:

"Nancy will be grown up when that is accomplished."

"It is true," replied the Mayor, "that for three or four years the park will be torn up, but when it is finished the children will have more space to play in."

Mrs. Coleman likened the box covering over the railroad tracks in the park as "a bunker on the golf links."

Miss Mabel McCumber said:

"It will be a fortification landscape."

Mrs. John Marshall Gallagher, speaking for the Chicago Club of Women in New York, said the New York Central tracks should be put in a tunnel instead of the present roofed plan. She held her ground in sharp controversy. The Comptroller mentioned that railroad cost was a factor against tunneling.

"Why consider the financial point of view for benefit of the railroads; why not for the taxpayers?" asked Mrs. Gallagher.

The women applauded vigorously. In a clash over certain estimates Comptroller Prendergast said he had competent engineering authority for his statement.

"What is the name of your authority?" asked one of the women.

"Mr. Harwood, engineer of the New York Central," replied Mr. Prendergast.

Another speaker referring to the improvement as a convenience to the railroad moved the Mayor to say:

"That is all this is, a convenience to the New York Central, all the way from Clarkson Street to Albany Avenue with an incidental benefit to the city."

"Oh," chorused the women.

The session developed into a heckling bee, in which Comptroller Prendergast was the principal target.

Between the Mayor and Mrs. Bryan there resulted a direct contradiction in very polite but very caustic language.

Read "THE WANDERER,"

by Maurice V. Samuels. Story founded on the Biblical story of the Prodigal Son, which will be printed complete in twelve installments, beginning Monday, Feb. 19, in The Evening World.

LINCOLN PORTRAIT FOR U. S.

Organization Formed to Buy Marshall Picture for Nation.

A movement to purchase the late William Edwards Marshall's portrait of Abraham Lincoln by popular subscription and present it to the nation was set on foot to-day when Supreme Court Justice Finch approved certificates of incorporation of the Marshall's Lincoln Memorial Fund, Inc.

The incorporators are Israel Feltberg, No. 14 West One Hundred and Nineteenth Street, A. Mitchell Leslie, No. 65 West One Hundred and Sixtieth Street, Harry Marsh Warren, No. 18 West Seventeenth Street, G. Pettit LeBrun, Municipal Building, Frederick J. Brown, No. 115 Nassau Street, Mary A. Donnelly, No. 162 Madison Avenue, and Hope Fitzgerald, No. 546 Fifth Avenue.

COULTER MADE A MAJOR.

Lawyer Takes Oath as Officer in Quartermaster's Reserve Corps.

Ernest K. Coulter, a lawyer of No. 2 Rector Street and Superintendent of the New York Society for the Prevention of Cruelty to Children, has been appointed a major in the Quartermaster's office reserve corps of the United States army. He took the oath to-day.

Mr. Coulter received his commission in a communication from President Wilson and the Secretary of War.

Ab-hah-thissno!! Catching Cold?

Get a Bottle of

Mentho-Laxene

Take as directed—right away.

Checks and aches colds and coughs in 24 hours. Guaranteed. Nothing as good. Follow the advice of a lot of cough cures. All drug stores.

## PROTECTION FOR THE CITY IN THE RIVERSIDE CONTRACT CLAIMS MR. PRENDERGAST

The Comptroller Makes Reply  
to Evening World's  
Question No. 2.

To the Editor of The Evening World:

In The Evening World's series of questions relating to the proposed west side improvement, the following appeared on Feb. 2:

Question No. 2.—In the form of contract prepared and advocated by the City Administration for the improvement of the New York Central tracks along the west side of Manhattan there is no mention of special franchise taxes, and doubt exists whether any could be collected. Therefore The Evening World submits to the Mayor and members of the Board of Estimate this question:

Would not the interests of the city be better protected if there was inserted in the contract this clause: "All conveyances of permanent easements, permanent overhead, surface and underground rights affecting lands granted to the railroad company by the City of New York shall be deemed special franchises for the purposes of taxation?"

SAYS CITY HAS NO POWER TO INSERT SUCH CLAUSE.

This question is very easily answered. The law gives the city no power to make such an agreement, but on the contrary places absolute authority with the State Tax Commission to make special franchise tax assessments.

Before I go into the reasons for this answer, I desire to clear up a point raised in The Evening World's paragraph introducing Question No. 2, namely, that doubt exists as to whether special franchise taxes can be collected at all from the railroad under the conditions of the proposed contract. In my answer to Question No. 1, which was printed in The Evening World of Feb. 7th, I considered this matter in detail. I showed that the railroad does not stand to escape paying special franchise taxes, but on the contrary that the aggregate of its payments will increase, both in special franchise taxes and real estate taxes. I need not therefore go into that phase of the question again.

The matter which The Evening World presents in Question No. 2 is a question of law, and I have received therefore the advice of the tax law experts in the office of the Corporation Counsel. The power to say what

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shall be subject to a special franchise tax, or what shall not be subject to a special franchise tax, belongs with the State. It is not a matter for the city to determine, nor can the city by agreement nullify or change the State's definition of a special franchise.

FIRST OFF, IT'S UP TO STATE TAX COMMISSION.

The Legislature has stated very clearly what a special franchise is for purposes of taxation. In Chapter 712 of the Laws of 1899, are the provisions of law which specify the nature of a special franchise. In brief, it is provided that the right to build or operate a railroad, or, under, or through the public streets, shall be known as a special franchise. In addition, it is provided that not only the right to build or operate, but the tangible property such as ties, rails, signals, or pillars or other structures in public streets, shall be subject to special franchise taxation. As I pointed out in my previous statement, the body which has the authority under the law to make the valuation of such property is the State Tax Commission. The power to collect the tax, just as if it were a real estate tax assessed by our own Department of Taxes and Assessments, is with the Bureau of the Department of Finance of the city. In other words, the first time when the city has a hand in special franchise taxes is when the State Tax Commission makes its statement showing what property has been assessed as subject to special franchise taxes and the valuation.

Thus it is clear that the city has no authority whatever to say what particular property shall be subject to special franchise taxes. Moreover, the State Tax Commission is itself specifically limited by the Legislature in saying what property shall be taxable as special franchises, because the Legislature has given an explicit definition of the nature of a special franchise.

CITY HAS NO RIGHT TO DEFINE SPECIAL FRANCHISE.

Now I come to the specific question as to whether the city could agree with the New York Central to have certain rights or easements regarded for the purpose of taxation as special franchises. The city could not make such an agreement, because it would then be assuming a power which is vested in the Legislature alone. It would actually be an attempt to assume legislative power. The State is the sovereign power, and its rule makes of the Legislature. The city is a corporation, and in the eyes of the law it is nothing but an individual subject to the State's sovereign authority. It cannot change the rules laid down for it.

It is very easy to see why it might not be well for the city to be able to make a private agreement with the railroad, on the matter of special franchise taxes. The idea behind The Evening World's question is of course that by agreement we might get assurance of higher taxes from the railroad.

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